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CENTRAL FAX CENTER****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE****DEC 22 2005****Applicant:** Jonathan Fanger et al.**Application No.:** 10/776,414**Group Art Unit:** 3738**Filed:** February 11, 2004**Examiner:** R. W. Amareld Jr.**Entitled:** GUIDE FOR SPINAL TOOLS, IMPLANTS,
AND DEVICES**Docket No.:** 101896-239 (DEP5150CIP)**Certificate of Facsimile (37 C.F.R. 1.8(a))**

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December 22, 2005

By:

Date of Signature and Mail Deposit

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Attorney for Applicant(s)

Commissioner for Patents
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RESPONSE TO RESTRICTION REQUIREMENT

Dear Sir:

This communication is in response to the Office Action dated December 7, 2005.

The Examiner requires restriction of the above-referenced application to one of the following inventions:

Group I: claims 1-43, 55-60, and 65-73, drawn to a spinal guide device; and

Group II: claims 44-54 and 61-64, drawn to a kit with guide and plate.

Applicants elect, with traverse, the Group I claims (claims 1-43, 55-60, and 65-733).

Accordingly, claims 44-54 and 61-64 are withdrawn from consideration.

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The Examiner further requires election of one of the following "patentably distinct" species for the guide member and the guide device handle:

GUIDE MEMBER:

Species A: Figure 1, guide member with two distinct bores
Species B: Figures 5B, guide member with conjoined bores

GUIDE DEVICE HANDLE

Species A: Figure 3, stationary elongate shaft
Species B: Figure 8, elongate shaft with trigger mechanism
Species C: Figure 9A, dual adjustable elongate shafts with loop handle
Species D: Figure 10A, elongate shaft with sliding support

Claims 1-18, 32, 34-40, and 43 are generic to all species.

For the guide member, Applicants elect, with traverse, Species B, Figure 5B, drawn to a guide member with conjoined bores. Applicants note that Species B includes Figures 5A, 5C, and 5D, in addition to Figure 5B. Claims 19-24 read on the elected species.


For the guide device handle, Applicants elect, with traverse, Species A, Figure 3, drawn to a stationary elongate shaft. Applicants note that Species A includes Figures 1, 2A, 2B, and 5A, in addition to Figure 3. Aside from the generic claims, no additional claims read on the elected species.

Accordingly, claims 25-31, 33, 41-42, and 55-60 are withdrawn from consideration as being drawn to the non-elected species.

In sum, claims 1-24, 32, 34-40, and 43 are subject to examination, and remaining claims 25-31, 33, 41-42, 44-64 are withdrawn from consideration. The Examiner is encouraged to telephone the undersigned attorney for Applicants if such communication is deemed to expedite prosecution of this application.

Respectfully submitted,

Date: December 22, 2005



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